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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,626	05/24/2002	Akihiho Maruyama	P21989	7767

7055 7590 03/21/2005

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RESTON, VA 20191

EXAMINER

LU, FRANK WEI MIN

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,626

Applicant(s)

MARUYAMA ET AL.

Examiner

Frank W. Lu

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/16/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-20, drawn to a method for detecting and quantitating a micro-organism having a specific function and its gene from the natural environment (claims 1-8, 19, and 20), a method for assessing the function of a microbial population in the natural environment by analyzing succession of the microorganism existing predominantly in the natural environment (claims 9 and 10), a method for analyzing and assessing a polluted environment (claims 11 and 12), a method for analyzing and evaluating an environment polluted by harmful chemicals (claims 13-16), and a method for analyzing and evaluating an oil-polluted environment (claims 17 and 18)

Group II, claims 22-29, drawn to a 16S rDNA (claim 22) and an RNA or DNA probe (claims 23-29).

Group III, claims 32-43, drawn to a method for detecting and quantitating a petroleum-degrading bacterium belonging to the genus *Cycloclasticus* (claims 32-35), a method for screening a petroleum-degrading bacterium belonging to the genus *Cycloclasticus* (claims 36-39), and a method for identifying a petroleum-degrading bacterium belonging to the genus *Cycloclasticus* (claims 40-43).

Art Unit: 1634

2. The inventions listed as Groups I to III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Groups I to II do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features since a 16S rDNA is known in the art. For example, both 16 rDNA from *Butyrivibrio fibrisolvens* (Lett. Appl. Microbiol., 23, 218-222, 1996) and SEQ ID NO: 1 have a nucleotide sequence “ggagg” (see nucleotides 1430-1435 of 16 rDNA from *Butyrivibrio fibrisolvens* and nucleotides 1445-1449 of SEQ ID NO: 1).

Groups I to III do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features. For example, step 2) of claim 1 in Group I is not required for Group III while genus *Cycloclasticus* in Group III is not required for Group I.

Groups II to III do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features since a 16S rDNA is known in the art. For example, both 16 rDNA from *Butyrivibrio fibrisolvens* (Lett. Appl. Microbiol., 23, 218-222, 1996) and SEQ ID NO: 1 have a nucleotide sequence “ggagg” (see nucleotides 1430-1435 of 16 rDNA from *Butyrivibrio fibrisolvens* and nucleotides 1445-1449 of SEQ ID NO: 1).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

Art Unit: 1634

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

3. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CAR § 1.6(d)). The CM Fax Center number is (571)273-8300.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Lu, Ph.D., whose telephone number is (571)272-0746.

The examiner can normally be reached on Monday-Friday from 9 A.M. to 5 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (571)272-0745.

Any inquiry of a general nature or relating to the status of this application should be directed to the Chemical Matrix receptionist whose telephone number is (703) 308-0196.

Frank Lu
PSA
March 16, 2005


FRANK LU
PATENT EXAMINER